

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC NO.3526 OF 2022

Shudeep Kumar Dutta @ Datta

Petitioner

Mr.D.Panigrahi, Adv.

-versus-

Jayasmita Biswal

Opposite Party(s)

None

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
4.2.2022**

Order No.

01. 1. This matter is taken up through video conference mode.
2. Heard the submission of the learned counsel for the Petitioner.
3. The Writ Petition involves a challenge to the order of refusal passed by the Family Court, Bhubaneswar involving an Application for waving out the statutory period.
4. Advancing his submission in reference to the order, learned counsel for the Petitioner taking this Court to the nature of Application, vide C.P. No.993 of 2021 contended that since the original application is a joint move by both the wife and husband

being Petitioner Nos.1 & 2, even there was no necessity for entering into waiving out the time out period. It is in the premises, Mr.Panigrahi, learned counsel for the Petitioner contended that there is wrong appreciation of the dispute involved herein.

5. Considering the submission of the learned counsel for the Petitioner, however taking the matter at admission stage, this Court records the submission of the learned counsel for the Petitioner that there was no objection to the move by Petitioner No.2, vide Annexure-2 by Petitioner No.1. This Court looking to the contents of the Application at Annexure-2 finds, while Petitioner No.2 filed the Application, Petitioner No.1 accompanied Petitioner No.2 in filing a joint memo in moving such Application. The original application also discloses, the said application has been filed positioning both the parties here as Petitioner Nos.1 & 2 clearly indicating that there is no dispute in between the parties in the event divorce order is passed. It is keeping in view that there is a joint Application for divorce, there should not be any obstruction in entertaining such Application and disposing of such case instantly. In the circumstance and for the joint move by both the Wife and

Husband in every stage, this Court finds, there is mechanical disposal of the Waiver Application by the Family Court.

6. In the circumstance, while setting aside the impugned order, vide Annexure-3 passed by the Family Court, Bhubaneswar, this Court directs the Family Court, Bhubaneswar to forthwith close the proceeding, vide C.P. No.993 of 2021 by undertaking such exercise within a period of one month from the date of communication of this order by the Petitioner. Both the Petitioner and the Opposite Party since moved the Application before the Family Court, keeping in view the direction herein, are directed to appear before the Family Court, Bhubaneswar on 10.2.2022 and the Family Court shall fix a date of final disposal of the Proceeding.

7. With the above direction, the Writ Petition stands disposed of.

8. As restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the Parties may utilize a printout of the order available in the High Court's Website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587 dated 25th March,

2020, modified by Notice No.4798 dated 15th April, 2021 and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(Biswanath Rath)
Judge

M.K.Rout

